

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JANUARY 19, 2010

CALL TO ORDER/NOTING OF QUORUM

Chairman Snow called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Guthrie and Commissioner Sturtz. Public Information Officer Fults and Executive Secretary Dunsmore were also in attendance.

Marc Carmichael, Jeff McKean, Connie Vickery, Gary Tiplick, Lewis Coulter, Brad Klopfenstein, C. Tooman, Matt Price and John Barnett were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the January 5, 2010 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Vice Chairman Johnson moved to approve the parties agreed disposition forms that were submitted for the January 19, 2010 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the

inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Three hundred twelve (312) renewals approved, fifty (50) new and/or transfer permits approved, three (3) permits approved for catering, two (2) permits approved for first year escrow, two (2) permit approved for second year escrow, one (1) permit approved for third year escrow and four (4) permits approved for fourth year escrow.

DL49-14404 GAT, LLC, D/B/A JACK'S – Chairman Snow stated he had conversations with Attorney Matt Price, counsel for United Package Liquors, in the last week regarding the transfer of this permit. Subsequent emails have followed between the Chair, Matt Price and Attorney Jeff McKean, counsel for Gat, LLC. The Chairman asked both parties to come to the Commission meeting this morning to present their arguments regarding this transfer to the full Commission.

Matt Price asked the Commission to remand this transfer to the local board for reinvestigation. Mr. Price and his client were not aware of the meeting and, therefore, were not present at the local board meeting to remonstrate. Attorney Price stated his client has the same type of establishment directly across the street from the proposed location of said transfer application. Mr. Price feels that the local board was not able to thoroughly investigate this transfer application because no one was present as a remonstrator to provide information as to impact on other businesses and/or need and desire for services.

Jeff McKean requested the Commission uphold the local board's recommendation and approve the transfer of location. All proper notifications were sent and posted as required by statute. Mr. McKean feels that the local board members are aware of the location of the transfer and are aware that the same type of establishment currently exists across the street.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the transfer. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR48-10152 765 RIDERS, LLC - Commissioner Guthrie noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the local board based their recommendation on the multiple violations against the permittee, which go directly to the permittee's character.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR19-23490 AND RR19-23491 HISPANA-AMERICA LLC, D/B/A EL PULGARCITO RESTAURANT – Commissioner Guthrie noted this is a type 112 and a type 210-1 transfer of location application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the local board cited no need or desire for such services as reason for the recommendation of denial.

Commissioner Guthrie moved to uphold the local board's recommendation to deny the transfer. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL45-01588 KEVIN THOMAS, D/B/A CHIPS N NUTS LIQUORS – Commissioner Guthrie noted this is a type 217 renewal application with the local board voting two (2) to one (1) to approve.

Commissioner Guthrie stated the one recommendation to deny came from the Excise officer that sits on the board. He based his vote on the multiple violations against this permittee, many of which were sales to minors.

Commissioner Guthrie moved to overturn the local board and deny the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

INACTIVE FILES

INACTIVE FILES – Vice Chairman Johnson moved to make eight (8) permits inactive. All eight (8) permits are not subject to auction. Motion seconded by Commissioner Guthrie and it was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this _____ day of _____, 2010.

P. TOM SNOW, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER